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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,432	03/20/2001	Klaus Muller	732/000035	1490

26474 7590 06/10/2003

KEIL & WEINKAUF
1350 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

EXAMINER

FERGUSON, LAWRENCE D

ART UNIT	PAPER NUMBER
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1774

8

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/811,432	MULLER ET AL.	
	Examiner	Art Unit	
	Lawrence D Ferguson	1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) 12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment mailed March 31, 2003.
Claims 2-3 and 7-11 were cancelled and claims 1, 12 and 13 were amended, rendering claims 1, 4-6 and 12-13 pending.

Restriction

2. Amended claims 12-13 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: a reflecting part of a household device and an insulating part of a household device are different invention(s) from a layered composite material.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 54-68 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections – 35 USC § 103(a)

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholas et al (U.S. 3,668,034) in view of Vinod (U.S. 5,965,232).

Nicholas discloses a layered material comprising a backing layer formed of thermoplastic material and an intermediate layer with an outer metalized film (abstract) where the layered material has an outer decorative layer (column 1, lines 7). Nicholas discloses the metallized film is made of chrome (column 1, line 41) having an intermediate layer formed of thermoplastic material (column 2, lines 3-4).

Nicholas does not disclose a heat cured layer or the substrate made of polypropylene.

Vinod teaches a layered composite material comprising a decorative layer, intermediate layer and lower layer coated with a protective coating (column 1, lines 39-41) where the coating is heat cured (column 5, lines 13-14) and the lower and intermediate layers are made of polypropylene (column 7, lines 11-18). Nicholas and Vinod are analogous art because they are from the same field of layered thermoplastic material. It would have been obvious to one of ordinary skill in the art to include polypropylene in the substrate of Nicholas because Vinod teaches polypropylene to provide the multilayered composite with more protection from outside influences. Additionally it would have been obvious to one of ordinary skill in the art to include a heat cured layer because Vinod teaches the heat curing layer increases the original presentation of the multilayered decorative composite (column 5, lines 10-25) by protecting it from environmental hazards. Although neither reference specifically discloses the total thickness, thickness is an optimizable feature. It would have been obvious to one of ordinary skill in the art to optimize the

components because discovering the optimum or workable range involves only routine skill in the art. The thickness directly affects durability of the composite material. *In re Aller* 105 USPQ 233 and see *In re Boesch*, 617 USPQ 215. In amended claim 1, '...a non-woven composed of a polypropylene prepared in presence of a metallocene catalyst' and '...been applied to the decorative layer' are product by process claim limitations, which are given little patentable weight in product claims. "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966.

Response to Arguments

5. Rejection made under 35 USC 112/101, in regards to claims 12 and 13 has been withdrawn due to Applicant's removing use language limitations. Additionally, rejection made under 35 USC 102(b) as being anticipated by Nicholas et al (U.S. 3,668,034) has been withdrawn due to Applicant amending claim 1. Applicant's arguments to rejection made under 35 USC 103(a) have been considered but are found unpersuasive. Applicant argues Nicholas and Vinod are non-analogous art. The intended use of the prior art are of little consequence because both references are from the same field of

layered thermoplastic material. Applicant further argues the combination of Nicholas and Vinod does not teach nor suggest each and every element of amended claim 1 because the intermediate layer comprising a non-woven composed of a polypropylene prepared using a metallocene catalyst is neither taught nor suggested. In amended claim 1, '...a non-woven composed of a polypropylene prepared in presence of a metallocene catalyst' is a product by process claim limitation, which are given little patentable weight in product claims.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is (703) 305-9978. The examiner can normally be reached on Monday through Friday 8:30 AM – 4:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. Please allow the examiner twenty-four hours to return your call.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.



Lawrence D. Ferguson
Examiner
Art Unit 1774

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

